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Note from Ecology: Comments to Ecology with request to distribute to the Area-wide Task Force based on presentation made at the March 6, 2003 Area-wide Task Force meeting.

- 1) Ecology has illegitimately suspended implementation of the Model Toxics Control Act at sites known to be contaminated with metals contamination well over the MTCA limits and at levels known to be in excess of those which will cause harm to human health or the environment. This includes multiple sites in western and eastern Washington.
- 2) Ecology is making recommendations to people (such as it did at a CASE community meeting in Burien) like wipe your feet before going in the house and wet mop your floors. In doing so Ecology is totally ignoring a significant potential source of exposure, air releases from construction projects like the SeaTac airport proposed third runway and the Department of Transportation state route 509 construction, two current examples of very large surface area construction projects in known contaminated areas. Wet mopping is not much of an answer when your child is outside (or inside for that matter) breathing in construction dust contaminated with arsenic, lead and cadmium.
- 3) The impacts of disturbing ASARCO contamination at these projects, among the states largest, have not been examined under SEPA and NEPA as required by law. Even worse Ecology has provided assistance to the project proponents in avoiding any area wide examination of the impacts of disturbing ASARCO contamination. To date according to Ecology's response to a Public Disclosure Act request I filed (on the SeaTac Airport projects) the only SEPA consideration of ASARCO metals was limited to arsenic at one Port of Seattle borrow area, an insignificant fraction of the land that will be disturbed by the projects mentioned above. There was no consideration of ASARCO metals contamination at all under NEPA. Instead of meeting the law, Ecology has continued to process, or assist in the processing of needed approvals and required permits without any consideration of the ASARCO metals impacts on a project(s) wide basis. Under the cumulative impacts criteria contained in both SEPA and NEPA this would require the assessment of the cumulative impacts of all soil disturbance for the SeaTac Airport construction projects, state route 509 construction and other known or scheduled projects in the area. This assistance in light of Ecology's knowledge of ASARCO metals contamination in the proposed project areas is contrary to Ecology's statutory mandate, not to mention a violation of state and federal law.
- 4) Ecology has failed to even do the absolute minimum required to protect human health and the environment from ASARCO contamination from

large scale (or for that matter virtually any) construction projects which would require (among other things) air monitoring for ASARCO metals, including particle sizing and speciation of the metals in the areas where large scale surface soil disturbance is taking place.

5) While there was some unrelated air monitoring done in the SeaTac Airport area during 2001 (the Seattle Air Toxics Study) the sampling station was not placed in an optimal location for monitoring construction related dust, and most planned surface area disturbance has not yet occurred. Ecology also terminated monitoring at the SeaTac airport location in February 2002 which will obviously eliminate any future consideration of disturbed surface soils in the air pathway.

6) Ecology has established interim action levels for ASARCO metals contamination. The levels are grossly in excess of the levels known to cause human health impacts and environmental damage. Ecology's own experts have determined that the current 20 mg/Kg MTCA Method A limit for arsenic is in excess of an order of magnitude too high based on assessment of its potential to cause cancer fatalities. Recognizing this, (according to internal Ecology documents) the state was scheduled to revise the arsenic limit. As the computed limit was substantially lower than the natural background limit for arsenic (7 mg/Kg) Ecology has proposed setting the new MTCA Method A limit at the background level, 7mg/Kg. That was the plan until Area Wide Contamination came along and Ecology suspended plans to make any changes in the MTCA Method A criteria for arsenic due to the uncomfortable implications. This decision has left millions of Washington State citizens in harms way, an inexcusable outcome.

7) The Environmental Protection Agency has recently examined the manner in which it calculates regulatory limits for cancer causing chemicals. It is in the process of adopting revisions to those methods after their studies found that children are up to 65 times more susceptible to carcinogens than adults. Most current human health based limits are based on adult exposure calculations. This has obvious implications for the actions, or lack of actions by Ecology as outlined above.

8) Ecology's permissive interim action levels, refusal to consider (or use its authority to force project proponents to consider) the SEPA implications of proposed earth moving/construction projects in ASARCO metals contaminated areas and refusal to designate contaminated properties under MTCA represents a sentence of harm and death to an unknown, but unacceptable number of children.

I have put a number of these concerns, in particular as they apply to the SeaTac Airport site, in writing to Ecology since June of 2002. I have yet to receive an answer to any of those written concerns in spite of repeated requests for a response and waiting for eight months. At a policy level, as well as a human health level the answers to these matters are needed now. Responsible action on the part of Ecology that

meets the requirements of its statutory mandate is needed as well.

There are too many people at risk to allow Ecology's past actions and present course to continue any further.

If meeting or discussing these matters by phone will assist Ecology in understanding and responding to these concerns I will make the time available to do so.

Regards,

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